THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

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WRIT PETITION No. 26824 of 2005

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Dated:24.03.2006

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Between:

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Matsyarasa Kamalavathi W/o late Krishnamurthy Raju,

Proprietor, Srirama Rice & Flour Mill,

G.Madugula Village and Mandal,

Visakhapatnam District and others.

… **PETITIONERS**

And:

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The District Collector-cum-Agency District Judge,

Visakhapatnam District and others.

…**RESPONDENTS**

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

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WRIT PETITION No. 26824 of 2005

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ORDER:

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Heard the learned counsel for the petitioners and the learned Government Pleader for Social Welfare appearing for respondents

1,2 and 4. Despite service of notice, there is no appearance on behalf of the third respondent/plaintiff to oppose this writ petition.

This writ petition is filed by the petitioners seeking a Writ of Mandamus declaring the order, dated 07.12.2005, passed in I.A.No.1 of 2005 in A.A.S.1/2005/F5 rejecting the application of the petitioners seeking stay of the operation of the decree and judgment, dated 19.10.2005, passed in A.O.S.No.20 of 1995 before the Agency Subordinate Judge, Paderu, Visakhapatnam.

The dispute relates to the suit schedule property, in which a rice mill is being run under the name and style of Sri Rama Rice & Four Mill, in G.Madugula village and Mandal of Visakhapatnam District. The third respondent filed the suit at the first instance for permanent injunction in 1995, and later amended the same for recovery of possession. The suit was subsequently decreed for recovery of possession, vide the decree and judgment dated 19.10.2005. Against the same, the petitioners herein preferred an appeal before the Agent to Government-cum-District Collector, first respondent herein, along with an application seeking stay of the operation of the decree and judgment passed by the trial Court pending disposal of the appeal. The Court below, by impugned order dated 07.12.2005, rejected the said application recording a finding that the trial Court has passed a well-reasoned order.

There is no dispute with regard to the possession of the property in question by the petitioners in which a rice mill is being run. Inasmuch as a decree was granted against the petitioners in a suit for recovery of possession, though various grounds are raised in support of the plea of the petitioners finding fault with the decree and judgment of the trial Court, as the appeal is pending before an appellate forum i.e, the first respondent herein, it is for the said authority to go into the merits of the case and adjudicate on the findings recorded by the trial Court in its decree and judgment, dated 19.10.2005.

However, it is to be noted that the petitioners are in long standing possession of the property in question, and as the appeal is pending, I dispose of the writ petition directing the appellate authority, first respondent, to dispose of the appeal filed by the petitioners, as expeditiously as possible, preferably within a period of four

months from the date of receipt of a copy of this order. I further direct that status quo obtaining as on today with regard to the possession of the suit schedule property shall be maintained till the disposal of the appeal by the first respondent.

Subject to the above directions, the writ petition is disposed of. There shall be no order as to costs.

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24.03.2006

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